

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 07-20152

v.

Hon. John Corbett O'Meara

COURTNEY GIBSON,

Defendant.

**ORDER DENYING DEFENDANT'S
MOTION TO MODIFY SENTENCE**

Before the court is Defendant Courtney Gibson's motion to modify his sentence pursuant to the Fair Sentencing Act of 2010 (124 Stat. 2372) and 18 U.S.C. § 3582(c)(2). The Fair Sentencing Act of 2010 ("FSA") reduced the mandatory minimum sentences for crack cocaine offenses and reduced the disparity between sentences for crack cocaine and powder cocaine offenses. Having been sentenced in 2009, before the effective date of the FSA, Defendant bases his motion upon the decision in United States v. Blewett, 719 F.3d 482 (6th Cir. 2013) that the FSA applies retroactively. However, the Blewett decision was vacated and a rehearing en banc was granted. The Sixth Circuit, sitting en banc, determined that the FSA is not retroactive. United States v. Blewett, __ F.3d __,

2013 WL 6231727 (6th Cir. Dec. 3, 2013). Accordingly, the FSA does not apply to Defendant and the court may not modify his sentence. See 18 U.S.C. § 3582(c) (as a general rule, a district court “may not modify a term of imprisonment once it has been imposed”).

IT IS HEREBY ORDERED that Defendant’s motion for modification of sentence is DENIED.

s/John Corbett O’Meara
United States District Judge

Date: April 25, 2014

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, April 25, 2014, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager